

**PUBLIC INTEGRITY COMMISSION
MINUTES
October 15, 2019**

1. Call to Order: 10:00 a.m. Present: Bonnie Smith (Chair); William F. Tobin, Jr. (Vice-Chair), Michele Whetzel (Vice-Chair); Commissioners: Andrew Manus, Gary Simpson, Rourke Moore. Commission Counsel: Deborah J. Moreau, Esq.

2. Approval of Minutes for September 17, 2019: Moved—Commissioner Whetzel; seconded—Commissioner Manus. Vote 6-0, approved.

3. Administrative Items

- A. COGEL trip—No December meeting. Commission Counsel will attend the December 2019 conference with Commissioners Manus, Whetzel and Moore.
- B. November hearing—extended meeting time.
- C. State nepotism policy. The Commissioners were given a draft copy of a nepotism policy Commission Counsel had been working on with staff from the Department of Human Resources. DHR has not modified or implemented the policy. Given the large number of nepotism issues being raised by State employees, the Commissioners decided to look at the policy and see if they have any ideas about how to implement a state-wide nepotism policy.
- D. Training—state-wide video training.

4. Motion to go into Executive Sessionⁱ and Hear Requests for Advisory Opinions, Waivers and Referrals: Moved—Commissioner Tobin; seconded—Commissioner Moore. Vote 6-0, approved.

5. 19-35—Post-Employment

[Employee] worked for a State [Agency] and retired from State employment on October 31, 2019. [Prior to his retirement] he was responsible for the design and plan development of [several] projects that were assigned to him. At the time of the meeting, he had most recently worked on two projects: [Project A] and [Project B]

Both projects were scheduled to be completed by the end of 2019. In addition, [Employee] was managing a project [that had been] contracted to a third-party vendor: [Project C].

Lastly, [Employee] had worked on: [Project D].

This project involved researching [certain aspects of the State's infrastructure maintenance]. There were approximately 30 locations to be researched. [Employee] had finished researching two locations and had six more 'in progress' at the end of 2018. He had not worked on the project in 2019.

After retirement, [Employee] was considering employment in the same field and some of that work could include [Agency] projects. He asked the Commission for guidance as to which [Agency] projects he could work on after he retired without violating the two-year post-employment restriction in the Code of Conduct. Specifically, he asked 1) if he could contact the staff working on [Project C] so that he could answer any questions that may arise and 2) if he could resume work on [Project D] at some point in the future?

For 2 years after leaving State employment, State employees may not represent or otherwise assist a private enterprise on matters involving the State, if they are matters where the former employee: (1) gave an opinion; (2) conducted an investigation, or (3) were otherwise directly and materially responsible for the matter while employed by the State.¹

One reason for post-employment restrictions is to allay concerns by the public that ex-government employees may exercise undue influence on their previous co-workers and colleagues.² Nevertheless, Delaware Courts have held that although there may be a subject matter overlap in the State work and the post-employment work, that where a former State official was not involved in a particular matter while with the State, then he was not “directly and materially responsible” for that matter.³ In *Beebe*, while with the State, an official’s responsibilities were to review and make decisions on applications from hospitals to expand their services. It was alleged that he was violating the post-employment law because after he left the State he was representing a hospital on its application. However, the Court found that as to the particular application before his former agency for Nanticoke Hospital, he had not been involved in that matter while with the State, so he was not “directly and materially responsible” for that particular matter.

The Federal Courts have stated that “matter” must be defined broadly enough to prevent conflicts of interest, without defining it so broadly that the government loses the services of those who contemplate private careers after their public service.⁴ To decide if [Employee] would be working on the same “matter,” Courts have held that it is the same “matter” if it involves the same basic facts, the same parties, related issues and the same confidential information.⁵ Similarly, this Commission has held that the facts must overlap substantially.⁶

To determine if there was substantial overlap, the Commission compared the duties and responsibilities during employment to the post-employment activities. Like the matter in *Beebe*,⁷ [Employee] worked on the subject matter while employed by the State. However, the court in *Beebe*⁸ drew a specific line between the subject matter and its application to specific facts. In analogous situations the Commission has approved post-employment positions for [Agency] workers who leave State employment to work for one of the agency’s contractors so long as

¹ 29 Del. C. § 5805(d).

² *United States v. Medico*, 784 F.2d 840, 843 (7th Cir., 1986).

³ *Beebe Medical Center v. Certificate of Need Appeals Board*, C.A. No. 94A-01-004, J. Terry (Del. Super. June 30, 1995), *aff’d.*, No. 304 (Del. January 29, 1996).

⁴ *Medico* at 843.

⁵ *Ethical Standards in the Public Sector: A Guide for Government Lawyers, Clients, and Public Officials*, American Bar Association, Section of State and Local Government Law, Publisher; p. 38.

⁶ *Commission Op. No. 96-75 (citing Medico at 842)*. See also *Beebe*.

⁷ *Beebe Medical Center v. Certificate of Need Appeals Board*, C.A. No. 94A-01-004, J. Terry (Del. Super. June 30, 1995), *aff’d.*, No. 304 (Del. January 29, 1996).

⁸ *Id.*

they do not work on the same projects.⁹ The Commission is to strive for consistency in their opinions.¹⁰

It was clear that [Employee] could not work on [Project A] or [Project B], those being the most recent State projects for which he was materially responsible. As a consequence, the post-employment restriction for those projects will expire on Oct. 31, 2021.

As to [Project C], [Employee] asked if he could respond to questions from his former co-workers about the project. The Code of Conduct does not prohibit [Employee] from answering questions to assist his former colleagues. However, if the questions were posed by outside vendors, he should not insert himself into matters involving a project for which he was previously responsible lest it be seen as assisting a private enterprise, a violation of the Code.

Finally, [Employee] asked if he may work on [Project D] after he left State service. The last time [Employee] worked on that project was at the end of 2018. As stated above, [Employee] completed the research on two of the [project's] locations and had six others 'in progress'. The Commission decided that [Employee] could work on the 22 locations for which he had not previously been responsible, any time after he left State service. However, he could not have any involvement in the two research projects that he completed or the six other research projects that were 'in-progress' at the time of his separation from the State. The post-employment restriction for those projects will expire at the end of 2020.

The Commission also reminded [Employee] of the prohibition against revealing confidential information gained during his employment with the State.¹¹ In addition, [Employee] may not appear before any [of the Agency's] bid committees for a period of two years. That did not mean that he could not work on [Agency] bids, he could, but he could not appear before his former colleagues and co-workers when the bid is presented to [the Agency].

Motion: No violation of the post-employment restriction if [Employee] followed the Commission's advice about working on [Agency] projects after he retired from State service. Moved—Commissioner Manus; seconded—Commissioner Simpson. Vote 6-0, approved.

6. 19-36—Personal Interest

[The President of a school board asked if a newly-elected board member had to recuse himself from matters involving teachers because he was married to a teacher.]

The [school's] bylaws set forth rules to avoid conflicts of interest, depending on the [member's] relationship to the school, students and the community. [The school board's President asked the Commission to offer advice on the extent of the new member's conflict(s) of interest and which matters would require his recusal.]

⁹ *Commission Ops. 12-09 and 13-41.*

¹⁰ 29 *Del. C. § 5809(5).*

¹¹ 29 *Del. C. § 5805(d).*

While the Commission had no jurisdiction to interpret [the school's] bylaws, the Commission reviewed the matter to determine what types of situations would require [the new board member's] recusal under the State's Code of Conduct.

A. Jurisdiction

A State agency is defined as "any office, department, board, commission, committee...school district, board of education and all public bodies existing by virtue of an act of the General Assembly..."¹² "School districts" are "[s]tate agencies" in the Code.¹³ As a result, the school's board members are considered state employees, defined in relevant part as any person: "who is an elected or appointed school board member."¹⁴

B. In their official capacity, employees may not review or dispose of matters if they have a personal or private interest in a matter before them.¹⁵

"A personal or private interest in a matter is an interest which tends to impair a person's independence of judgment in the performance of the person's duties with respect to that matter."¹⁶ As a matter of law, a person has a personal or private interest if any decision "with respect to the matter would result in a financial benefit or detriment to accrue to the person or a close relative to a greater extent" than others similarly situated or if "the person or a close relative has a financial interest in a private enterprise which would be affected" by a decision on the matter to a greater or lesser degree than others similarly situated.¹⁷ 'Close relative' is defined as "a person's parents, spouse, children (natural or adopted) and siblings of the whole and half-blood."¹⁸ A personal or private interest is not limited to narrow definitions such as "close relatives" and "financial interest."¹⁹ Rather, it recognizes that an official can have a "personal or private interest" outside those limited parameters. It is a codification of the common law restriction on government officials.²⁰

Under the Delaware common law, conflicts of interest for public officials may arise as a result of more than just pecuniary interests.²¹ The concern under the common law restriction on public officials participating in decisions where they have a personal or private interest is the same as would arise under the State Code prohibition which restricts such officials from "reviewing and disposing of matters in which they have a personal or private interest that tends to impair independence of judgment."²² The concern is that decisions be based on a "fair and unadulterated examination of the merits" and that "any conduct giving the appearance that

¹² 29 Del. C. § 5804(11).

¹³ 29 Del. C. § 5804(10). See also *Commission Op. 07-63*.

¹⁴ 29 Del. C. § 5804(12)(a)(3).

¹⁵ 29 Del. C. § 5805(a)(1).

¹⁶ 29 Del. C. § 5805(a)(1).

¹⁷ 29 Del. C. § 5805(a)(2)(a) and (b).

¹⁸ 29 Del. C. § 5804(1).

¹⁹ 29 Del. C. § 5805(a)(2).

²⁰ See, e.g., *Commission Op. Nos. 00-04 and 00-18*.

²¹ See *Shellburne, Inc. v. Roberts*, Del. Super., 238 A.2d 331 (1967) (complaint alleged "personal interest," "conflict of interest," and "use of public office in the furtherance of such personal interest or conflict of interest" because public official allegedly based his decision on other than the merits because he was motivated by (1) his desire to assist his coreligionists; (2) the close attorney-client and business relationship between the official and the attorney for the civic association which wanted rezoning; and (3) his colleague, whose wife was a member of the Church).

²² 29 Del. C. § 5805(a)(1).

impropriety is involved therein should be studiously avoided."²³ Moreover, conflict of interest statutes generally do not abrogate common law conflict of interest principles.²⁴ Thus, the State Code is basically a codification of the common law restrictions which Delaware Courts have recognized as encompassing more than pecuniary interests.

This Commission has repeatedly held that the spousal relationship is a basis upon which conflicts of interest can, and do, arise.²⁵ [The new board member] was prohibited from reviewing and disposing of matters related to a close relative, his wife. That would include, but was not limited to, teacher contracts, raises and benefits. In addition, conflicts of interest may arise out of matters that do not involve pecuniary interests. [The new board member] should also recuse himself from decisions regarding his wife in any way. For example, a vote for Teacher of the Year does not involve any monetary benefit. However, if [the board member's] wife were one of the candidates, he could not vote on the matter.

C. Employees may not engage in conduct that may raise suspicion among the public that they are engaging in conduct contrary to the public trust.²⁶

The purpose of the code is to insure that there is not only no actual violation, but also not even a "justifiable impression" of a violation.²⁷ The Commission treats that as an appearance of impropriety standard.²⁸ The test is whether a reasonable person, knowledgeable of all the relevant facts, would still believe that the official's duties could not be performed with honesty, integrity and impartiality.²⁹ Thus, in deciding appearance of impropriety issues, the Commission looks at the totality of the circumstances.³⁰ Those circumstances should be examined within the framework of the Code's purpose which is to achieve a balance between a "justifiable impression" that the Code is being violated by an official, while not "unduly circumscribing" their conduct so that citizens are encouraged to assume public office and employment.³¹

As long as [the new board member] recused himself as necessary, there would be no appearance of impropriety. Indeed, his public recusals would have a positive effect on the public's confidence in their school board.

Motion—[The new board member] must recuse himself from all board matters that affect his wife. Moved—Commissioner Whetzel; seconded—Commissioner Manus. Vote 6-0, approved.

²³ See *Kulesza v. Star Services Inc.*, Del. Super., CA. No. 93A-OI-002, n. 8 (1993) (expressing the court's concern for any deviation from the administrative process as provided by law or participation in *ex parte* communications between one party and those charged with reviewing the merits for the State agency).

²⁴ 63C Am. Jur. 2d *Public Officers and Employees* § 253 (1997).

²⁵ See *Commission Ops. 14-24* (school board member's vote on teacher's contract was improper); *16-37* (school board member's spouse worked for an entity involved in negotiating teacher contracts, board member had to recuse from all contract discussions and votes); *16-18* (husband worked in industry regulated by wife's employer); *12-29* (spouses working for the same agency).

²⁶ 29 Del. C. § 5806(a).

²⁷ 29 Del. C. § 5802.

²⁸ *Commission Op. No. 07-35*.

²⁹ *In re Williams*, 701 A.2d 825 (Del. 1997).

³⁰ See, e.g., *Commission Op. No. 97-23* and *97-42*.

³¹ 29 Del. C. §§ 5802(1) and 5802(3).

7. 19-37—Post-Employment

[Employee] worked for [a State Agency] and was retiring from State employment on December 31, 2019.³² For the last eleven years, she has [worked on Project A]. In 2017, she was assigned to various projects in the City of Wilmington, [Project B]. Over the years, [Employee] had supervised the work of many of [the Agency]’s vendors but had not been involved in the selection of any of those vendors.

After retirement, [Employee] was considering employment with one of [the Agency]’s vendors. While she had not narrowed down which of the vendors she would work for, she believed that she would be asked to [work on projects that were in the same geographic location as her State job].

She asked the Commission for guidance as to which [Agency] projects she could work on after she retired without violating the two-year post-employment restriction in the Code of Conduct.

For 2 years after leaving State employment, State employees may not represent or otherwise assist a private enterprise on matters involving the State, if they are matters where the former employee: (1) gave an opinion; (2) conducted an investigation, or (3) were otherwise directly and materially responsible for the matter while employed by the State.³³

One reason for post-employment restrictions is to allay concerns by the public that ex-government employees may exercise undue influence on their previous co-workers and colleagues.³⁴ Nevertheless, Delaware Courts have held that although there may be a subject matter overlap in the State work and the post-employment work, that where a former State official was not involved in a particular matter while with the State, then he was not “directly and materially responsible” for that matter.³⁵ In *Beebe*, while with the State, an official’s responsibilities were to review and make decisions on applications from hospitals to expand their services. It was alleged that he was violating the post-employment law because after he left the State he was representing a hospital on its application. However, the Court found that as to the particular application before his former agency for Nanticoke Hospital, he had not been involved in that matter while with the State, so he was not “directly and materially responsible” for that particular matter.

The Federal Courts have stated that “matter” must be defined broadly enough to prevent conflicts of interest, without defining it so broadly that the government loses the services of those who contemplate private careers after their public service.³⁶ To decide if [Employee] would be working on the same “matter,” Courts have held that it is the same “matter” if it involves the same basic facts, the same parties, related issues and the same confidential information.³⁷ Similarly, this Commission has held that the facts must overlap substantially.³⁸

³² See attached email.

³³ 29 Del. C. § 5805(d).

³⁴ *United States v. Medico*, 784 F.2d 840, 843 (7th Cir., 1986).

³⁵ *Beebe Medical Center v. Certificate of Need Appeals Board*, C.A. No. 94A-01-004, J. Terry (Del. Super. June 30, 1995), *aff’d.*, No. 304 (Del. January 29, 1996).

³⁶ *Medico* at 843.

³⁷ *Ethical Standards in the Public Sector: A Guide for Government Lawyers, Clients, and Public Officials*, American Bar Association, Section of State and Local Government Law, Publisher; p. 38.

To determine if there would be substantial overlap, the Commission compared the duties and responsibilities during employment to the post-employment activities. Like the matter in *Beebe*,³⁹ [Employee] worked on the subject matter while employed by the State. However, the court in *Beebe*⁴⁰ drew a specific line between the subject matter and its application to specific facts. In analogous situations the Commission has approved post-employment positions for [Agency] workers who leave State employment to work for one of the agency's contractors so long as they do not work on the same projects.⁴¹ The Commission is to strive for consistency in their opinions.⁴²

Obviously, [Employee] could not work on any part of [Project A], that being the most recent State project for which she was materially responsible. In her State role, [Employee] had overarching responsibilities that touched all aspects of the project. Consequently, the post-employment restriction for that project will expire on December 31, 2021. The post-employment restriction also applied to the City of Wilmington projects she worked on in 2017. At the meeting, [Employee] stated that she was still working on those projects. As a result, the expiration date of the post-employment restriction as it applied to the Wilmington projects would also expire on December 31, 2021. As to [Employee]'s question regarding other projects, the Commission decided that upon her retirement, [Employee] could work on projects in the same geographic area as long as she did not have any previous involvement with those projects while she was employed at [the Agency].

One of the goals of the post-employment law is to allay the public's concern that government employees may exercise undue influence over their previous government co-workers.⁴³ Consequently, [Employee] could not appear before any [of the Agency's] bid committees for the duration of the post-employment restriction. That would assure the public that her work on behalf of a private company would not be influenced by the prior working relationships between [Employee] and her former co-workers.

Assuming that [Employee] accepted employment which required her to work on State projects, the Commission reminded her of the prohibition against revealing confidential information gained during her employment with the State.⁴⁴

Motion—[Employee]'s post-employment work would not violate the two-year post-employment restriction as long as she abided by the Commission's guidance. Moved—Commissioner Whetzel; seconded—Commissioner Moore. Vote 6-0, approved.

³⁸ *Commission Op. No. 96-75 (citing Medico at 842)*. See also *Beebe*.

³⁹ *Beebe Medical Center v. Certificate of Need Appeals Board*, C.A. No. 94A-01-004, J. Terry (Del. Super. June 30, 1995), *aff'd.*, No. 304 (Del. January 29, 1996).

⁴⁰ *Id.*

⁴¹ *Commission Ops. 12-09 and 13-41*.

⁴² 29 Del. C. § 5809(5).

⁴³ *Commission Op. No. 96-75 (citing United States v. Medico, 7th Cir., 784 F.2d 840, 843 (1986))*.

⁴⁴ 29 Del. C. § 5805(d).

8. 19-30—Complaint (Personal Interest)

Procedure

Any person may file a sworn Complaint alleging violations of Title 29, Delaware Code, ch. 58.⁴⁵ On August 9, 2019, Complainant submitted a “Complaint” against the mayor of [a local municipality]. There was no Commission meeting in August and Commission Counsel was unable to reach Complainant prior to the September meeting. Consequently, the matter was not included on the agenda. The Complaint was not notarized. Nevertheless, the Commission reviewed the Complaint to decide if the facts properly alleged a violation of the Code of Conduct. If so, the Complaint could be re-submitted with the appropriate notarization.⁴⁶

Jurisdiction

The Commission’s jurisdiction is limited to interpreting Title 29, Del. C., ch. 58.⁴⁷ It may only act if it has jurisdiction over the party charged and jurisdiction over the complaint’s substance.

After determining that the Complaint was not properly sworn, the Commission next examined the Complaint to determine if the allegations were frivolous or failed to state a violation.⁴⁸ At this stage of the proceedings all facts were assumed to be true.⁴⁹ Allegations that were deemed to be frivolous or that fail to state a claim should be dismissed.⁵⁰ The remaining allegations were then examined to determine if a majority of the Commission had reasonable grounds to believe a violation may have occurred.⁵¹ “Reasonable grounds to believe” is essentially whether there is any reasonably conceivable set of circumstances susceptible of proof of the allegation.⁵²

A. Personal Jurisdiction

No Code of Conduct legislation shall be deemed sufficient to exempt any county, municipality or town from the purview of Subchapter I, Chapter 58 of Title 29 unless the Code of Conduct has been submitted to the State Ethics Commission [now Public Integrity Commission] and determined by a majority vote thereof to be at least as stringent as Subchapter I, Chapter 58, Title 29.”⁵³

Municipal employees, as well as elected and appointed officials, are subject to the State Code of Conduct unless the [municipality] has adopted a Code of Conduct that was at least as

⁴⁵ 29 Del. C. § 5810(a).

⁴⁶ 29 Del. C. § 4328(3)). (See *Hanson v. PIC*, 2012 WL 3860732 (Del. Super. Aug. 30, 2012) (*aff’d PIC v. Hanson*, 69 A.3d 370 (Del. 2013)).

⁴⁷ See, e.g., 29 Del. C. § 5808(a) and § 5809(2).

⁴⁸ 29 Del. C. § 5809(3); *Commission Rules*, p.3, III(A).

⁴⁹ 29 Del. C. § 5808(A)(a)(4).

⁵⁰ 29 Del. C. § 5809(3).

⁵¹ “Reason to believe” means “probable cause.” *Coleman v. State*, 562 A.2d 1171, 1177 (Del., 1989).

“Probable cause” means facts and circumstances are enough to warrant a person of reasonable caution to believe an offense occurred. *State v. Cochran*, 372 A.2d 193, 195 (Del., 1977).

⁵² *Spence v. Funk*, 396 A.2d 967 (Del. Super., 1978) (interpreting motion to dismiss under Super. Ct. Civ. Rule of Procedure 12(b)).

⁵³ 29 Del. C. § 5802(4).

stringent as the State Code of Conduct.⁵⁴ [The mayor] was subject to the State Code of Conduct because the [municipality] had not adopted its own Code of Conduct.

B. Subject Matter Jurisdiction

The Commission can only address alleged violations of "this chapter"-Title 29, ch. 58.⁵⁵ The Complaint alleged a variety of election violations. However, those matters did not fall within the Commission's jurisdiction. The one allegation in the Complaint that referenced the State Code of Conduct was the allegation that [the mayor], voted on a matter in which he had a personal interest.⁵⁶ The alleged conduct appeared to fall within the Commission's statutory jurisdiction.

Facts

[The municipality] held a city council election in 2019. In preparation for that election, [the mayor] actively recruited [Mr. X] to be a candidate, indicating that [Mr. X] would be a great addition to the city council while also implicitly denigrating the existing candidates, including Complainant. Subsequently, an issue was raised as to whether [Mr. X] met the criteria to run for city council because his status as a "resident" was called into question. That issue, as well as the eligibility of other candidates, was addressed at a city council meeting prior to the election. [The mayor] ultimately voted that [Mr. X] did qualify as a resident and that he be allowed to participate in the election. Ordinarily, the mayor's personal interest in [Mr. X] would not have been apparent during the vote. However, Complainant, and others, had read a copy of an email between [the mayor and Mr. X] when it was inadvertently sent out in response to a FOIA request.

Law

29 Del. C. § 5805(a)(1): Municipal officials may not review or dispose of matters if they have a personal or private interest that may tend to impair judgment in performing official duties.

A personal or private interest in a matter is an interest which tends to impair a person's independence of judgment in the performance of the person's duties with respect to that matter."⁵⁷ A personal or private interest is not limited to narrow definitions such as "close relatives" and "financial interest."⁵⁸ Rather, it recognizes that a State official can have a "personal or private interest" outside those limited parameters. It is a codification of the common law restriction on government officials.⁵⁹ When there is a personal or private interest, the official is to recuse from the outset and even neutral and unbiased statements are prohibited.⁶⁰

⁵⁴ 29 Del. C. §5802(4).

⁵⁵ 29 Del. C. § 5810(h).

⁵⁶ 29 Del. C. § 5805(a).

⁵⁷ 29 Del. C. § 5805(a)(1).

⁵⁸ 29 Del. C. § 5805(a)(2).

⁵⁹ See, e.g., *Commission Op. Nos. 00-04 and 00-18*.

⁶⁰ *Beebe Medical Center v. Certificate of Need Appeals Board*, C.A. No. 94A-01-004 (Del. Super. June 30, 1995), *aff'd*, No. 304 (Del., January 29, 1996).

The Commission decided that the sentiment expressed in [the mayor's] email did not rise to the level of a personal interest in [Mr. X's] candidacy. Notably, there were no facts alleged to indicate that [the mayor] and [Mr. X] were more than mere acquaintances. A private interest must be such that it would tend to impair an official's judgment. Other than the fact that [the mayor] perceived [Mr. X] to be a better candidate than others who were running for election, there was nothing in the complaint to substantiate a finding that [the mayor's] official judgment would be impaired by his acquaintance with [Mr. X].

Motion—The Complaint was dismissed. Moved—Commissioner Simpson; seconded—Commissioner Tobin. Vote 6-0, approved.

9. Motion to go out of Executive Session: Moved—Commissioner Whetzel; seconded—Commissioner Smith. Vote 6-0, approved.

10. Adjournment

ⁱ Pursuant to 29 Del. C. § 10004(6) to discuss non-public records (29 Del. C. § 10002(6) Any records specifically exempted from public disclosure by statute or common law), as the written statements required for advisory opinions and complaints are subject to the confidentiality standards in 29 Del. C. § 5805(f), 29 Del. C. § 5807(d) Advisory Opinion Requests, and 29 Del. C. § 5810(h) for Complaints. Further, the proceedings, like personnel actions are, by statute, closed unless the applicant for the advisory opinion requests a public meeting, 29 Del. C. § 5805(f), 29 Del. C. § 5807(d), or the person charged in a complaint requests a public meeting. 29 Del. C. § 5810(h). No applicant for an advisory opinion, nor a person charged by a complaint has requested an open meeting.